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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,096	11/20/2003	James Patrick Allen	AUS920030711US1	9428
35525	7590	09/21/2005	EXAMINER	
IBM CORP (YA)			PEYTON, TAMMARA R	
C/O YEE & ASSOCIATES PC			ART UNIT	
P.O. BOX 802333			PAPER NUMBER	
DALLAS, TX 75380			2182	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,096

Applicant(s)

ALLEN ET AL.

Examiner

Tammara R. Peyton

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/20/03.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 4-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Bahl et al., (US 6,834,341).

As per claims 15-27, Bahl teaches a method apparatus for detecting errors comprising means for setting a time span for a time window (event window); means for starting the time window; means responsive to the time window ending, for determining whether one or more input/output errors occur on a device path during a time window; and means responsive to one or more input/output errors occurring on the device path during the time window, for incrementing an error count. (Abstract, cols. 19, lines 42-col. 20, lines 1-58, Figs. 10-12)

Bahl teaches a method of dynamic compression in a data path performed by a PANS server or a client machine. Bahl teaches of defining an event window which monitors the data path wherein a time frame for the event window is based on the specific type of monitoring define by the system. Bahl's event window monitors for errors that occur during the event window's time frame. A min/max error count is established and is tracked in order to determine if a specific number of errors occur more than a predetermined number of times (Fig.11).

Claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Groath et al., (US 6,571,285).

Groath teaches a method for detecting errors in a network path comprising: setting a time span for a time window based on a time to processor a successful input/output network command; and monitoring a network device (col. 10, lines 4-6) input/output stream during the time window to detect sequential and distributed errors (col. 2, lines 7-23, col. 10, lines 2-8, 15-32, and col. 11, lines 43-62) having a sensitivity that is user definable. Groath further teaches method apparatus for detecting errors comprising means for setting a time span for a time window (monitoring window); means for starting the time window; means responsive to the time window ending, for determining whether one or more input/output errors occur on a device path during a time window; and means responsive to one or more input/output errors occurring on the

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device path during the time window, for incrementing an error count. (Groath, Abstract, col. 117, lines 45-col. 118, lines 1-44)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Popovici Dov can be reached on (571) 272-4083. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Mailed responses to this action should be sent to:

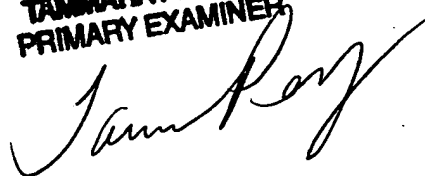
Commissioner of Patents and Trademarks
Washington, D.C. 20231.

Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(571) 273-8300

Hand-delivered responses should be brought to:
USTPO, Randolph Building, Customer Service Window
401 Dulany Street
Alexandria, VA 22314.

**TAMMARA PEYTON
PRIMARY EXAMINER**



Tammara Peyton

September 18, 2005